

REMARKS

In the Office Action dated 5/4/04, the Examiner rejected claims 1-34 as obvious over Moore. Applicants respectfully traverse this rejection. Claim 1 recites:

A method comprising:

providing goods in reusable containers, said reusable containers having a radio frequency identification device attached thereto;

establishing a relationship between a radio frequency identification device and a memory;

providing said goods in said containers to customers;

collecting said reusable containers from said customers; and

identifying which customers have returned their reusable containers by electronically querying the radio frequency identification devices attached to the reusable containers.

Thus, one feature of this invention is that goods are provided in reusable containers to customers. The reusable containers are collected from the customers. The customers who have returned their reusable containers are identified by electronically querying a radio frequency device attached to the container. Moore neither teaches nor suggests this invention.

Moore applies RFIDs to containers so that the containers can be tracked within factories and storage facilities. For example, Moore states:

A method and apparatus for tracking items automatically is described. A passive RFID (Radio Frequency IDentification) tag is used with a material tracking system capable of real-time pinpoint location and identification of thousands of items **in production and storage areas.**

Abstract, emphasis added. Moore repeatedly stresses that this is the environment envisioned for using his RFID. For example, at col. 6, lines 4-10, he teaches applying his apparatus to containers

capable of holding items such as lots of wafers used to manufacture integrated circuits. In such an application of the present invention, the container is termed a 'boat' and would hold lots of partially fabricated or fully fabricated wafers which may be routed through the plurality of steps required in the IC fabrication at an IC foundry.

Moore repeats this concept at col. 11, lines 52-57 and col. 15, lines 3-8. At col. 15, lines 42-44, Moore teaches that

The database generated from all of the association information of the tags and boxes in a particular database can be sampled to generate history information. It is envisioned that such a database will be accessible at multiple locations around a plant or inventory location.

Nowhere does Moore teach or suggest applying a RFID to reusable containers, providing the containers to customers, collecting the containers from customers, or identifying which customers have returned their containers by electronically querying the RFIDs.

The Office Action states:

More discloses a RFID container 12 tracking system. Moore does not specifically disclose the term reusable containers. To have provided the tracking of reusable containers for Moore would have been obvious to one of ordinary skill in the art.

Office Action, page 2. This argument is incorrect.

In order for a reference to render obvious an invention, **all** claim limitations must be taught or suggest by the reference. MPEP §2143.03. Nowhere does Moore teach or suggest any of the following limitations: a) providing to customers reusable containers having RFIDs, b) collecting such containers from customers, or c) electronically querying RFIDs upon the return of containers to track the return of containers from the customers. Thus, claim 1 patentably distinguishes over Moore.

The Office Action argues that

To have provided the tracking of reusable containers for Moore would have been obvious to one of ordinary skill in the art. The motivation for doing such is that it has been common knowledge to provide reusable containers, e.g. serial numbers on beer kegs, and track such via other mechanisms at a central location point in order to fill each for later use. To have substituted a serial number retrieval system for a RFID system would have been obvious to one of ordinary skill in the art.

Office Action, page 2. Applicants' attorney agrees that it is known to provide beer in beer kegs, and that beer kegs can be reused. However, Applicants' attorney is unfamiliar with the alleged "serial number retrieval systems" used in conjunction with beer kegs, and therefore challenges the Examiner's reliance on common knowledge. Pursuant to MPEP section 2144.03, Applicants request that the Examiner either provide appropriate documentary evidence or withdraw the rejection. (To the extent that the Examiner relies on any other type of "reusable container" as the basis for this rejection, Applicants request that the Examiner describe such container and provide documentary evidence setting forth the basis for this rejection.)

Even assuming that it is known among beer vendors to provide beer in beer kegs and collect the empty kegs, Moore combined with knowledge of this practice does not render obvious Applicants' invention. Moore states:

When an inventory or lot tracking system works with a large number of parts or locations, which may number into the thousands of locations and many thousands if not millions of parts, the systems described above become unwieldy to effectively operate, become cost prohibitive, or both. Further, with a large number of parts and locations, an exact location match is difficult if not impossible to provide with the above systems. Such a lack of ability to pinpoint the location of a part further hinders the operation and effectiveness of the above systems.

Additionally, items or lots in a manufacturing facility may sit in a certain location without being used or moved for weeks or more. In addition, the pallets of wafer boats in such a facility or storage area may be stacked in stacks five or more

layers deep. Personnel are often assigned to physically search all lots to find a lot which may be missing. Lots in large manufacturing facilities have been known to be lost for 6 months to a year. A more accurate tracking system for lots would be desirable.

Col. 3, lines 22-40. This has absolutely nothing to do with tracking returned beer kegs.

Further, this is not the sort of problem that would cause a beer vendor to use Moore's system to track returned kegs. Therefore, the outstanding rejection is pure hindsight, and must be withdrawn.

The previous Office Action (dated 11/19/03) cited Forster, and argued that Forster taught RFIDs applied to beer kegs. The Office Action also argued that "the returning and tracking of beer kegs to a common collection point is well known in the art. To have provided tracking the reusable containers from customers for Forster would have been obvious to one of ordinary skill in the art." Forster was specifically interested in tracking beer kegs through a manufacturing and distributing facility. Despite the fact that Forster monitored beer kegs with RFIDs as they pass within his manufacturing and distribution facility, it never occurred to Forster to monitor the return of empty kegs from users with an RFID. Therefore, Forster itself proves that the combination of the concept of reusable beer kegs and the concept of using RFIDs to monitor material through a manufacturing and distribution facility do not render obvious Applicants' claimed invention.

Applicants stress that an invention can only be obvious if the claim limitations are all suggested in the prior art. Since such a suggestion simply does not exist, the claims cannot be obvious.

Claims 2-17 and 19-46 distinguish over Moore for at least reasons similar to claim 1.

Claim 4 recites “storing in said memory an identification of the customer to whom said container is provided.” Moore does not suggest doing this. Therefore, the law mandates that claim 4 distinguishes over Moore. Claim 14 similarly distinguishes over Moore.

Claim 5 recites:

receiving orders from customers, said orders being for goods from a plurality of vendors, said orders being communicated to each of said vendors;
collecting said goods from said plurality of vendors at a central location;
providing said goods in said reusable containers;
informing said customers when said goods will be available for pickup; and
making said goods available for pickup by said customers, wherein said goods are in said reusable containers.

Moore has nothing to do with the invention of claim 5. Further, even if it were obvious to put an RFID on a beer keg and track the beer keg, it certainly isn’t obvious to put goods from a plurality of vendors into a beer keg. Therefore, claim 5 should be allowed. (Applicants note that the Office Action does not even purport to show where the limitations of claim 5 can be found in the prior art.)

Applicants’ claim 6 recites:

Method of claim 5 wherein said customers return said reusable containers to a central collection point, said method further comprising querying the radio frequency identification devices within said containers when said customers return said containers to said collection point.

Again, Moore does not teach or suggest providing reusable containers to customers, having the customers return the reusable containers, and querying the RFIDs when the customers return the containers. Therefore, Moore could not possibly render claim 6 unpatentable.

Claim 9 recites:

System of claim 8 wherein a computerized billing system is electronically coupled to the memory so that a customer can be billed if that customer does not return the reusable container.

Moore does not teach or suggest a billing system. Therefore, claim 9 could not possibly be obvious in light of Moore.

Claim 15 requires machine-readable indicia which “comprises a bar code or a magnetic strip.” There is nothing in Moore that would encourage one skilled in the art to use a bar code or a magnetic strip. Therefore, Moore, taken alone or in combination with the commercial practices of prior art beer vendors, fails to teach or suggest the subject matter of claim 15.

Claim 18 requires “collecting information on the purchasing habits of said customers; and offering a reduction of shipping cost in exchange for allowing targeted advertisement to be added to the reusable containers.” Moore neither teaches nor suggests this limitation.

Claims 25-28 require that the radio frequency identification device “is provided in a compartment within said container.” Even if it were obvious to put an RFID on a keg, there is certainly nothing to suggest putting an RFID in a compartment within a keg. Therefore these claims should be allowed.

Claims 35-38, 40 and 41 refer to reusable containers that contain packaged goods. Even if it were obvious to put an RFID on a keg, there is certainly nothing in Moore to teach or suggest putting packaged goods in a keg. That would be contrary to how kegs are used. Accordingly, claims 26-38, 40 and 41 should be allowed.


Applicants' new claims 42 and 43 refer to containers capable of storing different types of goods. Again, these claims should be allowed because that is not how Kegs are used.

Applicants' new claims 44-46 refer to containers capable of storing solid goods. Again, these claims should be allowed because that is not how Kegs are used.

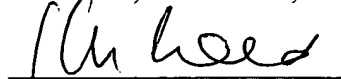
CONCLUSION

As claims 1-46 distinguish over Moore, Applicants earnestly request that the application be allowed. If the Examiner's next action is other than allowance, the Examiner is respectfully requested to telephone Applicants' attorney at (408) 732-9500 to discuss this matter.

Respectfully submitted,


Kenneth E. Leeds
Reg. No. 30,566
Attorney for Applicants

Pursuant to rule 37 CFR 1.8, Applicant's attorney hereby certifies that this document is being sent by first class mail, with sufficient postage, to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on June 14, 2004.



Signature

June 14, 2004

Date